**South Carolina General Assembly**

118th Session, 2009-2010

**S. 215**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Elliott

Document Path: l:\council\bills\ms\7092ab09.docx

Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: Horizontal property regime

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/17/2008 Senate Prefiled

12/17/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑172

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑172

1/23/2009 Senate Referred to Subcommittee: Malloy (ch), Ford, Massey, S.Martin, Mulvaney

**VERSIONS OF THIS BILL**

[12/17/2008](file:///p:\pprever\2009-10\215_20081217.docx)

**A** **BILL**

TO AMEND SECTION 27‑31‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ESTABLISHMENT OF A HORIZONTAL PROPERTY REGIME, SO AS TO PROVIDE IN THE EVENT A LESSEE, CO‑OWNER, OR OWNER DESIRES TO PRE‑SELL AN APARTMENT UNIT IN A CONDOMINIUM PROJECT, WHETHER OR NOT THE MASTER DEED HAS BEEN RECORDED, THE EARNEST MONEY DEPOSITS MUST BE PLACED IN A SPECIAL ESCROW ACCOUNT OR A SPECIAL BOND MUST BE OBTAINED; AND TO AMEND SECTION 27‑31‑130, RELATING TO WAIVER OF A REGIME, SO AS TO PROVIDE A VOTE OF TWO‑THIRDS OF THE CO‑OWNERS OF PROPERTY CONSTITUTED AS A HORIZONTAL PROPERTY REGIME MAY WAIVE THE REGIME, TO PROVIDE IF A CO‑OWNER OR A CREDITOR ENCUMBERING HIS APARTMENT DOES NOT AGREE TO ACCEPT THE WAIVER, THE CO‑OWNER MAY DEMAND THE CO‑OWNERS WHO MADE THE WAIVER REQUEST AND THOSE CO-OWNERS CONSEQUENTLY MUST PURCHASE HIS APARTMENT AT FAIR MARKET VALUE, TO PROVIDE A MANNER FOR DETERMINING THIS FAIR MARKET VALUE, AND TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 27‑31‑30 of the 1976 Code is amended to read:

“Section 27‑31‑30. (A) Whenever a lessee, sole owner, or the co‑owners of property expressly declare, through the recordation of a master deed or lease, which shall set forth the particulars enumerated in Section 27‑31‑100, their desire to submit their property to the regime established by this chapter, there shall thereby be established a horizontal property regime. Property may be submitted to a horizontal property regime prior to construction or the completion of any building or apartment, improvements, or structures on the property if proceeds from its sale are deposited into an escrow account with an independent escrow agent until construction or completion of the proposed property as evidenced by issuance of a certificate of occupancy from the appropriate municipal or county authority.

(B) In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company licensed to do business in this State as surety in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account with the South Carolina Real Estate Commission designated as beneficiary of any such surety bond.

(C) In the event a lessee, co‑owner, or owner desires to pre‑sell an apartment unit in a condominium project, whether or not the master deed has been recorded, the earnest money deposits must be placed in an escrow account meeting the terms and conditions of Section 27‑31‑30(A) or a bond meeting the terms and conditions of Section 27‑31‑30(B) must be obtained.”

SECTION 2. Section 27‑31‑130 of the 1976 Code is amended to read:

“Section 27‑31‑130. ~~(A)~~ ~~All the co‑owners or~~The sole owner or two‑thirds of the co‑owners of the property constituted into a horizontal property regime may waive the regime and regroup or merge the records of the individual apartments with the principal property, if the individual apartments are unencumbered, or if encumbered, if two‑thirds of the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors. If a co‑owner or a creditor encumbering his apartment does not agree to accept the waiver, the co‑owner may demand the co‑owners who made the waiver request, and those co-owners consequently must purchase his apartment at fair market value as determined by a licensed appraiser selected by the selling co‑owner and approved by the purchasing co‑owners.

~~(B)~~ ~~Notwithstanding subsection (A), in the case of nonprofit long‑term care retirement or life care facilities where there are co‑owners, a two‑thirds vote of the co‑owners suffices to waive the regime and regroup or merge the records of the individual apartments with the principal property if the individual apartments are unencumbered, or if encumbered, if the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.~~”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑